ENACTED TAX LEGISLATION – 2011 SESSION

General (non-emergency) Effective Date: September 28, 2011

Administrative Provisions

New Independent Appellate Office and Taxpayer Advocate created. On July 1, 2012, the Appellate Division and Taxpayer Advocate within Maine Revenue Services (MRS) will be replaced with a new independent Appeals Office and Taxpayer Advocate. Although the new office and Taxpayer Advocate will remain organizationally within MRS, the positions will be filled by the Commissioner of the Department of Administrative and Financial Services. Duties of the independent Appeals Office and Taxpayer Advocate will be similar to the duties now performed by the existing Appellate Division and Taxpayer Advocate (i.e., process certain taxpayer requests for reconsideration of MRS tax assessments and assist taxpayers in resolving tax problems). However, the performance of those duties will be independent of MRS and Attorney General's Office oversight. Except for employees of the Appeals Office, no-one, including taxpayers and employees of MRS and the Attorney General's Office, will be allowed ex parte communications with the independent Appeals Office. Reconsideration decisions made by the office must be independent of MRS and the Attorney General's Office. Decisions by the office will be considered final MRS agency action. Although taxpayers will be allowed to appeal adverse decisions to Superior Court, MRS is prohibited from appealing any decision made by the office. Reconsideration requests for which an appeals conference is held are subject to a fee of $100 if the amount contested is $5,000 or more. Reconsideration decisions, as well as advisory opinions, will be subject to public disclosure pursuant to a discovery request, freedom of access request, or a request with respect to any administrative or court proceeding. 36 MRSA, LD 1371, PL 2011, c. 439.

Regulatory reform. Among other changes, the law updates the definition of "rule" to include agency guidelines and specifies that a rule is not judicially enforceable unless it is adopted in a manner consistent with the Maine Administrative Procedures Act. Also, legislative committees are allowed to direct State agencies within their jurisdiction to conduct a retrospective review of rules to determine relevance, clarity and reasonableness. 5 MRSA § 8002(9). 3 MRSA, c. 36. LD 1, PL 2011, c. 304, Parts G & L.

General

Conformity to the Internal Revenue Code. The law is amended to conform with the Internal Revenue Code of 1986 as amended through December 31, 2010 for tax years beginning on or after January 1, 2010 and for any prior tax years as specifically provided by the IRC as amended. Conformity to the Code through December 31, 2010 relates specifically to federal tax law changes made since March 2, 2010 and primarily affects the State's income tax laws. This means, for example, that, beginning with the 2010 tax year, Maine conforms to the federal reduction in the business deduction related to the new federal small business tax credit for employee health insurance expenses and also conforms to the exclusion from federal gross income of employer-paid health insurance coverage for dependents under age 27. 36 MRSA § 111(1-A). LD 100, PL 2011, c. 1, Part P.

Additional time to file amended returns. In cases where the taxpayer's Maine tax liability is affected, the new law increases the time period required for filing an amended Maine income tax return, service provider tax return or estate tax return from 90 days to 180 days. An amended Maine *income tax* return must be filed within 180 days of the date of a final determination of a change or correction or the filing of a federal amended return. The term *final determination,* as it relates to the filing of an amended Maine income tax return, means the date on which the earliest of the following events occurs with respect to a federal taxable year:

- the taxpayer has made payment of an additional income tax liability resulting from a federal audit, the taxpayer has not filed a petition for redetermination or claim for refund for the portions of the audit for which the payment was made and the time for filing a petition for redetermination or refund claim has expired;
- the taxpayer receives a refund from the U.S. Treasury that resulted from a federal audit;
- the taxpayer signs an Internal Revenue Service (IRS) form consenting to a deficiency or accepting an overassessment;
- the taxpayer's time for filing a petition for redetermination with the U.S. Tax Court expires;
- the taxpayer and the IRS enter into a closing agreement; and
- a decision from the U.S. Tax Court, a district court, a federal court of appeals, U.S. Court of Federal Claims or the U.S. Supreme Court becomes final.

Effective July 1, 2011. 36 MRSA. LD 100, PL 2011, c. 1, Part CC.

Additional time for requesting a credit or refund. Under prior Maine law, for most Maine taxes, a taxpayer generally had 3 years from the time a return was filed or 2 years from the time the tax was paid, whichever period expired later, to request a credit or refund of overpaid taxes. The new law allows 3 years from the time the return was filed or *3 years* from the time the tax was paid to request a credit or refund of overpaid taxes. Effective July 1, 2011. 36 MRSA. LD 100, PL 2011, c. 1, Part DD.

Interest on tax refunds. Under prior Maine law, with respect to requests for refunds made on or after the original due date of a return, Maine Revenue Services did not have to pay interest on those refunds if the refund was issued within 90 days of the original return due date or date of refund request or amended return, whichever occurred later. Under the new law, MRS must pay interest if the refund is not issued within *60 days* of the original return due date or date of refund request or amended return. If interest applies, it is calculated from the original return due date or date of refund request or amended return, whichever occurs later. Effective July 1, 2011. 36 MRSA. LD 100, PL 2011, c. 1, Part EE.

Requests for reconsideration. New law increases from 30 days to 60 days the time period during which a taxpayer may request Maine Revenue Services to reconsider a tax assessment. Effective June 20, 2011. 36 MRSA § 151. LD 1043, PL 2011, c. 380, Part J.

Demand failure to file penalty. The penalty for failure to file a tax return within 30 days of receiving a formal demand to file letter is reduced from 100% of the tax due to the higher of $25 or 25% of the tax due. Applies to penalties accruing on or after October 1, 2011. 36 MRSA § 187-B. LD 1043, PL 2011, c. 380, Part K.

Non-filer tax assessments - more time to provide information. A person who has failed to file a required tax return with Maine Revenue Services now has 60 days to provide tax information necessary for the proper calculation of the Maine tax liability. An additional 60 days to provide the information is available upon written request prior to the expiration of the original 60-day period. Under prior Maine law, taxpayers had 30 days to provide the requested information, with an additional 90 days upon written request. Effective July 1, 2011. 36 MRSA § 141(2)(C). LD 100, PL 2011, c. 1, Part BB.

Reasonable cause – waiver of penalties. This change clarifies that, in addition to a taxpayer establishing the existence of reasonable cause for waiver or abatement of certain tax penalties, penalties must also be waived if the state tax assessor determines that grounds constituting reasonable cause are otherwise apparent. Effective June 20, 2011. 36 MRSA § 187-B. LD 1043, PL 2011, c. 380, Part L.

Criminal penalties – electronically filed returns. The law applies the criminal penalties for filing a false tax return or document to false tax returns and documents filed electronically. LD 1325, PL 2011, c. 285.

Setoff of Maine tax refunds against other state agency debt – additional time to request a hearing. Maine law allows a taxpayer's Maine income tax refund to be setoff against the taxpayer's debt owed to another state agency. Under prior law, a taxpayer had 30 days after receipt of notice of the setoff to request a hearing. The new law allows taxpayers 60 days after receipt of notice to request a hearing. Effective July 1, 2011. 36 MRSA § 5276-A(2). LD 100, PL 2011, c. 1, Part BB.

Individual Income Tax

Tax Rate Schedules. For tax years beginning on or after January 1, 2013, the existing individual income tax rates have been changed as follows: the 2% bracket is changed to a 0% bracket, the 4.5% and 7% brackets are collapsed into a 6.5% bracket and the 8.5% bracket is reduced to a 7.95% bracket. 36 MRSA § 5111. LD 1043, PL 2011, c. 380, Part N.

Standard Deduction. For tax years beginning on or after January 1, 2012, the law conforms the Maine individual income tax standard deduction amounts to the federal standard deduction amounts. 36 MRSA § 5124-A. LD 1043, PL 2011, c. 380, Part N.

Personal Exemption. For tax years beginning on or after January 1, 2013, the law conforms the Maine individual income tax personal exemption amount to the federal personal exemption amount. 36 MRSA § 5126. LD 1043, PL 2011, c. 380, Part N.

Itemized Deductions – Mortgage Insurance Premiums. For tax years beginning on or after January 1, 2012, the law allows mortgage insurance premiums for purposes of Maine itemized deductions to the extent claimed for federal itemized deductions. 36 MRSA § 5125(3)(F). LD 1043, PL 2011, c. 380, Part N.

Alternative Minimum Tax. For tax years beginning on or after January 1, 2012, the Maine alternative minimum tax for non-corporate taxpayers is repealed. The minimum tax credit remains in effect for unused credit amounts. 36 MRSA § 5203-C. LD 1043, PL 2011, c. 380, Part N.

Tax Additions – Lump-sum and early retirement plan distributions. For tax years beginning in 2012, the Maine additional taxes on lump-sum and early retirement plan distributions are reduced from 15% to 7.5% of the federal tax amount on these distributions. For tax years beginning after 2012, the additional Maine taxes on lump-sum and early retirement plan distributions are repealed. 36 MRSA § 5204. LD 1043, PL 2011, c. 380, Part N.

Section 179 expense. For tax years beginning on or after January 1, 2011, with respect to property placed in service during the taxable year, Maine will be in full conformity with the federal expensing rules under the Internal Revenue Code, section 179. Maine previously limited section 179 expensing to $25,000 for a taxable year. The new law allows expensing up to $500,000 for property placed in service in 2011. 36 MRSA § 5122(1)(N). LD 1043, PL 2011, c. 380, Part O.

Military Survivor Annuity Payments income subtraction. New law exempts from Maine individual income tax military annuity payments made to a survivor of a deceased member of the military as a result of service in the active or reserve components of the U.S. armed services under a survivor benefit plan or reserve component survivor benefit plan in accordance with 10 United States Code, Chapter 73. Applies to tax years beginning on or after January 1, 2011. 36 MRSA § 5122(2)(HH). LD 358, PL 2011, c. 138.

Nonresident Taxability Thresholds. Under prior law, nonresident individuals performing personal services in Maine for more than 10 days during the taxable year were subject to Maine income tax. For tax years beginning after 2010, nonresident individuals performing personal services in Maine for more than 12 days and earning more than $3,000 in Maine from all sources or deriving more than $3,000 from business activity in Maine on other than a systematic basis are subject to Maine income tax. Up to 24 days performing certain personal services in Maine (such as training, site inspections, etc.) may not be counted against the 12-day threshold. 36 MRSA § 5142, sub-§ 8-B. LD 1043, PL 2011, c. 380, Pt. CCCC.

Taxable income of nonresident individuals – interlocal agreements. Provides that compensation received by a nonresident individual as an employee of a political subdivision of an adjoining state performing services in Maine in accordance with an interlocal agreement under 30-A MRSA, chapter 115 is not considered Maine-source income, so long as the work performed does not displace a Maine resident employee. Applies to tax years beginning on or after January 1, 2011. 36 MRSA § 5142, sub-§ 9. LD 433, PL 2011, c. 130.

Domicile determinations. Excludes financial institutions from the criteria used to determine if an individual is considered to be domiciled in Maine for individual income tax purposes. Effective May 23, 2011. 36 MRSA § 5102, sub-§5. LD 1130, PL 2011, c. 132.

Credit for rehabilitation of historic properties after 2007. The sunset date for the credit for rehabilitation of historic properties after 2007 is pushed back from December 31, 2013 to December 31, 2023. Effective September 28, 2011, the credit becomes available to taxpayers subject to the insurance premiums tax under 36 MRSA, chapter 357. Also, the law clarifies that the credit applies with respect to certified historic structures that are condominiums. 36 MRSA § 5219-BB. LD 742, PL 2011, c. 453. LD 1468, PL 2011, c. 540.

Seed capital investment tax credit. The credit rate is increased from 40% to 60% of eligible investments and applies that rate across the State rather than basing it on unemployment rates. The limitation requiring that collective investment result in less than 50% ownership in an investee business is changed. The 50% ownership limitation now applies to each investor rather than to all investors collectively. Private venture capital funds may now claim the credit and the credit is refundable to those entities only. The refundable portion of the credit is excluded from Maine income. Applies to tax years beginning on or after January 1, 2012. 36 MRSA §§ 5122(2)(HH) & 5216-B. LD 22, PL 2011, c. 454.

Visual media production tax credit and reimbursement programs. Visual media production companies are no longer required to submit a copy of the certified visual media production report to Maine Revenue Services. The report must still be submitted to the Maine Film Office within 4 weeks of completing the certified visual media production. Also, for applications filed on or after January 1, 2011, the law clarifies that contractual payments for personal services are eligible for purposes of the visual media production reimbursement program. 5 MRSA § 13090-L(4). 36 MRSA § 6901(2). LD 1325, PL 2011, c. 285. LD 1468, PL 2011, c. 240.

Maine Capital Investment Credit. A credit is available to businesses that place depreciable property in service in Maine during the taxable year beginning in 2011 or 2012. The credit is equal to 10% of the federal bonus depreciation claimed for the taxable year under the Internal Revenue Code, section 168(k) on that property. The credit is prohibited with respect to certain property. The credit is limited to the tax liability of the taxpayer, but any unused portion of the credit may be carried forward for up to 20 years. The credit is subject to full recapture if the property is not used in Maine for the full 12 months following the date placed in service. Taxpayers must add back to income bonus depreciation claimed on the property for which the credit is claimed, but may not recapture the add-back amount in future years. 36 MRSA §§ 5122(1)(FF), 5122(2)(II) & 5219-GG. LD 1043, PL 2011, c. 380, Part O.

New Markets Tax Credit. A person making a qualified equity investment in a low-income community business is allowed a credit equal to 39% of the investment. The credit is taken over seven years, with 0% allowed in the first two years, 7% allowed in year three and 8% allowed in each of years four through seven. The credit is fully refundable, or the taxpayer may elect to carry any unused portion of the credit forward for up to 20 years. Certain recapture provisions apply. Applies to tax years beginning on or after January 1, 2012. 36 MRSA § 5219-GG. LD 1043, PL 2011, c. 380, Part Q.

Maine Fishery Infrastructure Credit. An income tax credit is available for investments in, or contributions to, public fishery infrastructure projects. The credit is equal to 50% of the eligible investment or contribution, as certified by the Department of Inland Fisheries and Wildlife, and must be taken in equal installments over four years. The investment/contribution limit per project is $5,000,000. The credit is limited to 50% of the tax liability for the taxable year immediately preceding the year during which the taxpayer applies for the credit. Any unused portion of the credit due to this limitation may be carried forward for up to 15 years. The credit is subject to recapture and is prohibited if the taxpayer receives any other Maine income tax benefit for the investment or contribution. Effective June 20, 2011. 36 MRSA § 5216-D. LD 1043, PL 2011, c. 380, Part HHHH.

Credit for wellness programs. An employer with 20 or fewer employees is allowed a credit equal to expenditures for developing, instituting and maintaining a wellness program for its employees. Expenditures applied to a credit claim that are also used as an expense against federal adjusted gross income must be added back to income through a Maine modification. The credit is limited to the lower of $100 per employee or $2,000. The credit cannot reduce tax liability below zero, but unused portions can be carried forward for up to five years. Applies to tax years beginning on or after January 1, 2014. 36 MRSA §§ 5122(1)(EE) & 5219-FF. LD 1333, PL 2011, c. 90, Part H.

Dental Care Access Credit. The Maine Dental Care Access Credit is amended to extend the credit through December 31, 2020, increase from 5 to 6 the number of dentists that may be certified each year 2012 through 2015 and reduces the maximum credit for those certified after 2011 from $15, 000 to $12,000. No dentists may be certified after 2015 and the credit is repealed December 31, 2020. 36 MRSA § 5219-DD. LD 164, PL 2011, c. 434.

Fiduciary Income Tax

Tax Rate Schedules. For tax years beginning on or after January 1, 2013, the existing progressive individual income tax rate schedules are changed from the current 2%, 4.5%, 7% and 8.5% rate brackets to two rate brackets of 6.5% and 7.95%. The Maine fiduciary income tax is based on the Maine individual income tax rate schedule for single individuals. 36 MRSA §§ 5111 & 5160. LD 1043, PL 2011, c. 380, Part N.

Itemized Deductions – Mortgage Insurance Premiums. For tax years beginning on or after January 1, 2012, the law allows mortgage insurance premiums for purposes of Maine itemized deductions to the extent claimed for federal itemized deductions. 36 MRSA § 5125(3)(F). LD 1043, PL 2011, c. 380, Part N.

Alternative Minimum Tax. For tax years beginning on or after January 1, 2012, the Maine alternative minimum tax for non-corporate taxpayers is repealed. The minimum tax credit remains in effect for unused credit amounts. 36 MRSA § 5203-C. LD 1043, PL 2011, c. 380, Part N.

Tax Additions – Lump-sum and early retirement plan distributions. For tax years beginning in 2012, the Maine additional taxes on lump-sum and early retirement plan distributions are reduced from 15% to 7.5% of the federal tax amount on these distributions. For tax years beginning after 2012, the additional Maine taxes on lump-sum and early retirement plan distributions are repealed. 36 MRSA § 5204. LD 1043, PL 2011, c. 380, Part N.

Section 179 expense. For tax years beginning on or after January 1, 2011, with respect to property placed in service during the taxable year, Maine will be in full conformity with the federal expensing rules under the Internal Revenue Code, section 179. Maine previously limited section 179 expensing to $25,000 for a taxable year. The new law allows expensing up to $500,000 for property placed in service in 2011. 36 MRSA § 5122(1)(N). LD 1043, PL 2011, c. 380, Part O.

Military Survivor Annuity Payments income subtraction. New law exempts from Maine individual income tax military annuity payments made to a survivor of a deceased member of the military as a result of service in the active or reserve components of the U.S. armed services under a survivor benefit plan or reserve component survivor benefit plan in accordance with 10 United States Code, Chapter 73. Applies to tax years beginning on or after January 1, 2011.

Credit for rehabilitation of historic properties after 2007. The sunset date for the credit for rehabilitation of historic properties after 2007 is pushed back from December 31, 2013 to December 31, 2023. Effective September 28, 2011, the credit becomes available to taxpayers subject to the insurance premiums tax under 36 MRSA, chapter 357. Also, the law clarifies that the credit applies with respect to certified historic structures that are condominiums. 36 MRSA § 5219-BB. LD 742, PL 2011, c. 453. LD 1468, PL 2011, c. 540. 36 MRSA § 5219-BB.

Seed capital investment tax credit. The credit rate is increased from 40% to 60% of eligible investments and applies that rate across the State rather than basing it on unemployment rates. The limitation requiring that collective investment result in less than 50% ownership in an investee business is changed. The 50% ownership limitation now applies to each investor rather than to all investors collectively. Private venture capital funds may now claim the credit and the credit is refundable to those entities only. The refundable portion of the credit is excluded from Maine income. Applies to tax years beginning on or after January 1, 2012. 36 MRSA §§ 5122(2)(HH) & 5216-B. LD 22, PL 2011, c. 454.

Visual media production tax credit and reimbursement programs. Visual media production companies are no longer required to submit a copy of the certified visual media production report to Maine Revenue Services. The report must still be submitted to the Maine Film Office within 4 weeks of completing the certified visual media production. Also, for applications filed on or after January 1, 2011, the law clarifies that contractual payments for personal services are eligible for purposes of the visual media production reimbursement program. 5 MRSA § 13090-L(4). 36 MRSA § 6901(2). LD 1325, PL 2011, c. 285. LD 1468, PL 2011, c. 240.

Maine Capital Investment Credit. A credit is available to businesses that place depreciable property in service in Maine during the taxable year beginning in 2011 or 2012. The credit is equal to 10% of the federal bonus depreciation claimed for the taxable year under the Internal Revenue Code, section 168(k) on that property. The credit is prohibited with respect to certain property. The credit is limited to the tax liability of the taxpayer, but any unused portion of the credit may be carried forward for up to 20 years. The credit is subject to full recapture if the property is not used in Maine for the full 12 months following the date placed in service. Taxpayers must add back to income bonus depreciation claimed on the property for which the credit is claimed, but may not recapture the add-back amount in future years. 36 MRSA §§ 5122(1)(FF), 5122(2)(II) & 5219-GG. LD 1043, PL 2011, c. 380, Part O.

New Markets Tax Credit. A person making a qualified equity investment in a low-income community business is allowed a credit equal to 39% of the investment. The credit is taken over seven years, with 0% allowed in the first two years, 7% allowed in year three and 8% allowed in each of years four through seven. The credit is fully refundable, or the taxpayer may elect to carry any unused portion of the credit forward for up to 20 years. Certain recapture provisions apply. Applies to tax years beginning on or after January 1, 2012. 36 MRSA § 5219-GG. LD 1043, PL 2011, c. 380, Part Q.

Maine Fishery Infrastructure Credit. An income tax credit is available for investments in, or contributions to, public fishery infrastructure projects. The credit is equal to 50% of the eligible investment or contribution, as certified by the Department of Inland Fisheries and Wildlife, and must be taken in equal installments over four years. The investment/contribution limit per project is $5,000,000. The credit is limited to 50% of the tax liability for the taxable year immediately preceding the year during which the taxpayer applies for the credit. Any unused portion of the credit due to this limitation may be carried forward for up to 15 years. The credit is subject to recapture and is prohibited if the taxpayer receives any other Maine income tax benefit for the investment or contribution. Effective June 20, 2011. 36 MRSA § 5216-D. LD 1043, PL 2011, c. 380, Part HHHH.

Credit for wellness programs. An employer with 20 or fewer employees is allowed a credit equal to expenditures for developing, instituting and maintaining a wellness program for its employees. Expenditures applied to a credit claim that are also used as an expense against federal taxable income must be added back to income through a Maine modification. The credit is limited to the lower of $100 per employee or $2,000. The credit cannot reduce tax liability below zero, but unused portions can be carried forward for up to five years. Applies to tax years beginning on or after January 1, 2014. 36 MRSA §§ 5122(1)(EE) & 5219-FF. LD 1333, PL 2011, c. 90, Part H.

Dental Care Access Credit. The Maine Dental Care Access Credit is amended to extend the credit through December 31, 2020, increase from 5 to 6 the number of dentists that may be certified each year 2012 through 2015 and reduces the maximum credit for those certified after 2011 from $15, 000 to $12,000. No dentists may be certified after 2015 and the credit is repealed December 31, 2020. 36 MRSA § 5219-DD. LD 164, PL 2011, c. 434.

Estate Tax

Estate Tax. The new law provides that, with respect to the tax on estates of decedents dying after December 31, 2012, the exclusion amount increases from $1,000,000 to $2,000,000. Also beginning in 2013, a progressive rate structure applies: 8% on estate value of more than $2,000,000 but less than or equal to $5,000,000; 10% on estate value of more than $5,000,000 but less than or equal to $8,000,000; 12% on estate value of more than $8,000,000. For estates of decedents dying on or after January 1, 2011, the law establishes that the maximum allowable amount for the Maine qualified terminable interest property deduction is the difference between the federal exclusion amount and the Maine exclusion amount. The law removes the provision that requires estates of nonresident decedents to include as taxable to Maine the proceeds from the sale of Maine property within six months of death. The law also clarifies provisions related to nonresident estates with ownership of pass-through entities containing Maine property. 36 MRSA chapters 575 & 577. LD 1043, PL 2011, c. 380, Part M.

Corporate Income Tax

Section 179 expense. For tax years beginning on or after January 1, 2011, with respect to property placed in service during the taxable year, Maine will be in full conformity with the federal expensing rules under the Internal Revenue Code, section 179. Maine previously limited section 179 expensing to $25,000 for a taxable year. The new law allows expensing up to $500,000 for property placed in service in 2011. 36 MRSA § 5200-A(1)(N). LD 1043, PL 2011, c. 380, Part O.

Credit for rehabilitation of historic properties after 2007. The sunset date for the credit for rehabilitation of historic properties after 2007 is pushed back from December 31, 2013 to December 31, 2023. Effective September 28, 2011, the credit becomes available to taxpayers subject to the insurance premiums tax under 36 MRSA, chapter 357. Also, the law clarifies that the credit applies with respect to certified historic structures that are condominiums. 36 MRSA § 5219-BB. LD 742, PL 2011, c. 453. LD 1468, PL 2011, c. 540.

Seed capital investment tax credit. The credit rate is increased from 40% to 60% of eligible investments and applies that rate across the State rather than basing it on unemployment rates. The limitation requiring that collective investment result in less than 50% ownership in an investee business is changed. The 50% ownership limitation now applies to each investor rather than to all investors collectively. Private venture capital funds may now claim the credit and the credit is refundable to those entities only. The refundable portion of the credit is excluded from Maine income. Applies to tax years beginning on or after January 1, 2012. 36 MRSA §§ 5200-A(2)(V) & 5216-B. LD 22, PL 2011, c. 454.

Visual media production tax credit and reimbursement programs. Visual media production companies are no longer required to submit a copy of the certified visual media production report to Maine Revenue Services. The report must still be submitted to the Maine Film Office within 4 weeks of completing the certified visual media production. Also, for applications filed on or after January 1, 2011, the law clarifies that contractual payments for personal services are eligible for purposes of the visual media production reimbursement program. 5 MRSA § 13090-L(4). 36 MRSA § 6901(2). LD 1325, PL 2011, c. 285. LD 1468, PL 2011, c. 240.

Maine Capital Investment Credit. A credit is available to businesses that place depreciable property in service in Maine during the taxable year beginning in 2011 or 2012. The credit is equal to 10% of the federal bonus depreciation claimed for the taxable year under the Internal Revenue Code, section 168(k) on that property. The credit is prohibited with respect to certain property. The credit is limited to the tax liability of the taxpayer, but any unused portion of the credit may be carried forward for up to 20 years. The credit is subject to full recapture if the property is not used in Maine for the full 12 months following the date placed in service. Taxpayers must add back to income bonus depreciation claimed on the property for which the credit is claimed, but may not recapture the add-back amount in future years. 36 MRSA §§ 5200-A(1)(Y), 5200-A(2)(V) & 5219-GG. LD 1043, PL 2011, c. 380, Part O.

New Markets Tax Credit. A person making a qualified equity investment in a low-income community business is allowed a credit equal to 39% of the investment. The credit is taken over seven years, with 0% allowed in the first two years, 7% allowed in year three and 8% allowed in each of years four through seven. The credit is fully refundable, or the taxpayer may elect to carry any unused portion of the credit forward for up to 20 years. Certain recapture provisions apply. Applies to tax years beginning on or after January 1, 2012. 36 MRSA § 5219-GG. LD 1043, PL 2011, c. 380, Part Q.

Maine Fishery Infrastructure Credit. An income tax credit is available for investments in, or contributions to, public fishery infrastructure projects. The credit is equal to 50% of the eligible investment or contribution, as certified by the Department of Inland Fisheries and Wildlife, and must be taken in equal installments over four years. The investment/contribution limit per project is $5,000,000. The credit is limited to 50% of the tax liability for the taxable year immediately preceding the year during which the taxpayer applies for the credit. Any unused portion of the credit due to this limitation may be carried forward for up to 15 years. The credit is subject to recapture and is prohibited if the taxpayer receives any other Maine income tax benefit for the investment or contribution. Effective June 20, 2011. 36 MRSA § 5216-D. LD 1043, PL 2011, c. 380, Part HHHH.

Credit for wellness programs. An employer with 20 or fewer employees is allowed a credit equal to expenditures for developing, instituting and maintaining a wellness program for its employees. Expenditures applied to a credit claim that are also used as an expense against federal taxable income must be added back to income through a Maine modification. The credit is limited to the lower of $100 per employee or $2,000. The credit cannot reduce tax liability below zero, but unused portions can be carried forward for up to five years. Applies to tax years beginning on or after January 1, 2014. 36 MRSA §§ 5200-A(1)(X) & 5219-FF. LD 1333, PL 2011, c. 90, Part H.

Pass-through Entities

Section 179 expense. For tax years beginning on or after January 1, 2011, with respect to property placed in service during the taxable year, Maine will be in full conformity with the federal expensing rules under the Internal Revenue Code, section 179. Maine previously limited section 179 expensing to $25,000 for a taxable year. The new law allows expensing up to $500,000 for property placed in service in 2011. 36 MRSA §§ 5122(1)(N) & 5200-A(1)(N). LD 1043, PL 2011, c. 380, Part O.

Credit for rehabilitation of historic properties after 2007. The sunset date for the credit for rehabilitation of historic properties after 2007 is pushed back from December 31, 2013 to December 31, 2023. Effective September 28, 2011, the credit becomes available to taxpayers subject to the insurance premiums tax under 36 MRSA, chapter 357. Also, the law clarifies that the credit applies with respect to certified historic structures that are condominiums. 36 MRSA § 5219-BB. LD 742, PL 2011, c. 453. LD 1468, PL 2011, c. 540.

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4 weeks of completing the certified visual media production. Also, for applications filed on or after January 1, 2011, the law clarifies that contractual payments for personal services are eligible for purposes of the visual media production reimbursement program. 5 MRSA § 13090-L(4). 36 MRSA § 6901(2). LD 1325, PL 2011, c. 285. LD 1468, PL 2011, c. 240.

Maine Capital Investment Credit. A credit is available to businesses that place depreciable property in service in Maine during the taxable year beginning in 2011 or 2012. The credit is equal to 10% of the federal bonus depreciation claimed for the taxable year under the Internal Revenue Code, section 168(k) on that property. The credit is prohibited with respect to certain property. The credit is limited to the tax liability of the taxpayer, but any unused portion of the credit may be carried forward for up to 20 years. The credit is subject to full recapture if the property is not used in Maine for the full 12 months following the date placed in service. Taxpayers must add back to income bonus depreciation claimed on the property for which the credit is claimed, but may not recapture the add-back amount in future years. 36 MRSA §§ 5122(1)(FF), 5122(2)(II), 5200-A(1)(Y), 5200-A(2)(V) & 5219-GG. LD 1043, PL 2011, c. 380, Part O.

New Markets Tax Credit. A person making a qualified equity investment in a low-income community business is allowed a credit equal to 39% of the investment. The credit is taken over seven years, with 0% allowed in the first two years, 7% allowed in year three and 8% allowed in each of years four through seven. The credit is fully refundable, or the taxpayer may elect to carry any unused portion of the credit forward for up to 20 years. Certain recapture provisions apply. Applies to tax years beginning on or after January 1, 2012. 36 MRSA § 5219-GG. LD 1043, PL 2011, c. 380, Part Q.

Maine Fishery Infrastructure Credit. An income tax credit is available for investments in, or contributions to, public fishery infrastructure projects. The credit is equal to 50% of the eligible investment or contribution, as certified by the Department of Inland Fisheries and Wildlife, and must be taken in equal installments over four years. The investment/contribution limit per project is $5,000,000. The credit is limited to 50% of the tax liability for the taxable year immediately preceding the year during which the taxpayer applies for the credit. Any unused portion of the credit due to this limitation may be carried forward for up to 15 years. The credit is subject to recapture and is prohibited if the taxpayer receives any other Maine income tax benefit for the investment or contribution. Effective June 20, 2011. 36 MRSA § 5216-D. LD 1043, PL 2011, c. 380, Part HHHH.

Credit for Wellness Programs. An employer with 20 or fewer employees is allowed a credit equal to expenditures for developing, instituting and maintaining a wellness program for its employees. Expenditures applied to a credit claim that are also used as an expense against federal taxable income must be added back to income through a Maine modification. The credit is limited to the lower of $100 per employee or $2,000. The credit cannot reduce tax liability below zero, but unused portions can be carried forward for up to five years. Applies to tax years beginning on or after January 1, 2014. 36 MRSA §§ 5122(1)(EE), 5200-A(1)(X) & 5219-FF. LD 1333, PL 2011, c. 90, Part H.

Insurance Premiums Taxes

Surplus lines premiums tax. The law makes changes to the application of surplus lines premiums tax to agree with federal changes enacted in 2010. The Maine tax is applied to premiums sold to a person whose principal place of business or principal residence is in Maine, unless the insured risk is located entirely outside Maine. If all of the insured risk of a Maine resident is located outside Maine, the premiums are taxable to the state where the largest percentage of risk is located. Applies to premiums received on or after July 1, 2011. 36 MRSA §§ 191, 2513, 2519, 2531 & 2532 . LD 1352, PL 2011, c 331.

Service contracts. Beginning in 2012, provider fees on service contracts may be excluded from premiums subject to the insurance premiums tax. The Maine insurance premiums tax, however, does apply to premiums for reimbursement insurance policies. Compliance with the Service Contract Act is required on or after January 1, 2012, but voluntary compliance prior to January 1, 2012 is permissible. 24-A MRSA § 7103(8). LD 1507, PL 2011, c. 345.

Credit for rehabilitation of historic properties after 2007. The sunset date for the credit for rehabilitation of historic properties after 2007 is pushed back from December 31, 2013 to December 31, 2023. Effective September 28, 2011, the credit becomes available to taxpayers subject to the insurance premiums tax under 36 MRSA, chapter 357. Also, the law clarifies that the credit applies with respect to certified historic structures that are condominiums. 36 MRSA § 5219-BB. LD 742, PL 2011, c. 453. LD 1468, PL 2011, c. 540.

New Markets Tax Credit. An insurance company making a qualified equity investment in a low-income community business is allowed a credit equal to 39% of the investment. The credit is taken over seven years, with 0% allowed in the first two years, 7% allowed in year three and 8% allowed in each of years four through seven. The credit is fully refundable, or the taxpayer may elect to carry any unused portion of the credit forward for up to 20 years. Certain recapture provisions apply. Applies to tax years beginning on or after January 1, 2012. 36 MRSA § 2531. LD 1043, PL 2011, c. 380, Part Q.

Maine Residents Property Tax & Rent Refund Program

Reimbursement limitation. The Maine Residents Property Tax and Rent Refund “Circuit Breaker” program benefit is limited to 80% of the final benefit calculation for program years beginning August 1, 2011 and August 1, 2012. The maximum refund is limited to $1,600. 36 MRSA § 6207(1)(B). LD 1043, PL 2011, c. 380, Part P.

Sales/Use Tax

Tax exemption – windjammers. The law authorizes a sales tax refund or exemption certificate for purchases of parts and supplies used primarily and directly for the operation, repair or maintenance of a windjammer based in Maine used to carry cargo or passengers for a fee. Applies to purchases made on or after October 1, 2012. LD 59, PL 2011, c. 425.

Tax exemption – resident meals served at certain retirement facilities. The law provides a sales tax exemption for meals served by certain retirement facilities to its residents. Effective October 1, 2011. Applies retroactively to January 1, 2010. LD 1043, PL 2011, c. 380.

Tax exemption – bottle redemption centers. The law provides a sales tax exemption for plastic bags sold to local bottle redemption centers. Applies retroactively to January 1, 2004. LD 1043, PL 2011, c. 380.

Tax exemption – aircraft and aircraft parts. The law provides a sales tax exemption for sales of aircraft and aircraft parts. Effective July 1, 2011 through June 30, 2015. LD 1043, PL 2011, c. 380.

Tax Exemption – watercraft. Previously enacted legislation provided a reduced sales tax rate for watercraft purchased and kept in Maine, or brought into Maine, by nonresident individuals for more than 30 days. New law clarifies the intent of the law to exempt from sales and use tax watercraft used in Maine by nonresident purchasers for no more than 30 days. Effective retroactively to August 1, 2010. LD 1325, PL 2011, c. 285.

Tax exemption – electricity – pine tree development zone businesses. The law provides that the sales tax exemption for Pine Tree Development Zone businesses applies to the sale of the transmission and distribution of electricity to those businesses. LD 1325, PL 2011, c. 285.

Tax on rental vehicles. Requires a person that is primarily engaged in the business of renting automobiles to collect 10% sales tax on the short-term rental of a pickup truck or van with a gross vehicle weight of less than 26,000 pounds and allows that person to purchase those vehicles tax-free. Provides a sales tax exemption for rentals for less than one year of an automobile to a new vehicle dealer's service customer when the rental is pursuant to a warranty. Applies to transactions entered into on or after October 1, 2011. LD 611, PL 2011, c. 209.

Tax exemption – commercial fishing vessels. The law provides a sales tax exemption/refund for fuel used in commercial fishing vessels. Applies to purchases of fuel on or after October 1, 2011. LD 1043, PL 2011, c. 380.

Definition of automobile. The law changes the definition of "automobile" for purposes of the Maine Sales and Use Tax to increase the maximum weight of pickup trucks and vans from 6,000 pounds to 10,000 pounds. This change affects the sales tax exemption for automobiles used in driver education, automobiles sold to amputee veterans who are granted free registration and automobiles purchased outside the State by a nonresident and subsequently used in Maine. The change also affects the purchase of an automobile and automobile parts and accessories by a person engaged in renting automobiles on a short-term basis, the purchase of an automobile by a person engaged in renting automobiles for one year or more and the purchase of automobile repair parts used in the repair of an automobile pursuant to an extended service contract. In addition, it affects provisions related to the sales tax on rental vehicles, the sales tax on extended warranties of automobiles, the sales and use tax exemption for purchase and use of a loaner vehicle by a new vehicle dealer, and the reimbursement of excise tax paid on certain automobiles rented for a period of less than one year. LD 713, PL 2011, c. 296.

Classified permits for retailers. The law removes the requirement that the State Tax Assessor issue classified permits to registered retailers. Classified permits previously issued remain in effect. LD 1325, PL 2011, c. 285.

Statement required on sales slips and invoices. The law requires that, if the sales tax is not separately stated, a retailer must include a statement on the sales slip or invoice presented to the purchaser that the stated price includes Maine sales tax. LD 1325, PL 2011, c. 285.

Motor vehicle oil premiums. The law clarifies the classification of engine oil for purposes of imposing the motor vehicle oil premiums administered by the State Tax Assessor in accordance with 10 MRSA § 1020. It applies a 35 cent per gallon premium on all motor vehicle oil other than diesel and gasoline engine crankcase oil sold or distributed in containers with a volume of 16 gallons or less. Previously the premium applied to containers of 5 gallons or less. It makes conforming changes to related provisions in Title 36 and adds an exception to the Maine Revenue Services confidentiality law allowing disclosure to the Finance Authority of Maine of the cumulative value of eligible premiums submitted for reimbursement in accordance with 10 MRSA § 1020-C. Generally effective June 3, 2011. Provisions governing the premiums and reimbursement are effective July 1, 2011. Certain other provisions administered by FAME are effective December 31, 2012. LD 1434, PL 2011, c. 211.

Cigarette/Tobacco Taxes

Product destroyed by distributors. The law permits the State Tax Assessor to allow a credit for cigarettes and tobacco products that are returned to, and ultimately destroyed by, the distributor because the cigarettes or tobacco products have become unfit for use, sale or consumption. Under prior law, credit was only allowable if the cigarettes or tobacco products were returned to the manufacturer. Effective July 1, 2012. LD 617, PL 2011, c. 441.

Delivery sales. The law requires persons making delivery sales of cigarettes or tobacco products to obtain a distributor's license and pay Maine taxes, as provided by federal law. LD 1325, PL 2011, c. 285.

Motor Fuel Taxes

Indexing. The law repeals the indexing of motor fuels tax rates on January 1, 2012. LD 1348, PL 2011, c. 392.

Milk Handling Fee

Handler responsible for fee. Allows only one milk handling fee to be assessed on any particular container of packaged milk and imposes a handling fee on 20-quart containers of packaged milk (formerly exempt from handling fees). If more than one wholesale handler handles a particular container of packaged milk in Maine, the handler, for purposes of collection of the fee, is the wholesale handler that first handles the milk. The law provides credits to milk handlers or their designees for fees paid pursuant to the law governing milk handling fees with respect to any packaged milk that is sold or shipped outside the State for out-of-state sale. Claims for credits or refunds authorized under 36 MRSA § 4903 apply to sales occurring on or after October 1, 2011. LD 718, PL 2011, c. 125.

Maine Bottle Law

Initiators of deposit – wine containers. Among other changes to the returnable bottle law, allows initiators of deposit for wine containers who sell no more than 100,000 gallons of wine or 500,000 wine containers per year to enter into a commingling agreement. The effect is reduced revenue to the state from unclaimed deposits. MRS is responsible for collecting these revenues. Effective July 1, 2012. LD 1324, PL 2011, c. 429.

Health Care Provider Tax

Tax increase. The law increases the provider tax rate applicable to nursing homes and residential treatment facilities from 5.5% to 6%. The law also makes changes related to COLA adjustments and use of funds from the provider tax. Effective October 1, 2011. LD 1016, PL 2011, c. 411.

Maine Potato Tax

Maine potato tax. The law changes the meeting requirements and composition of the Maine Potato Board, and increases the potato tax from $.05 to $.06 per hundredweight. Effective March 25, 2011 except that the potato tax increase is effective September 1, 2011. LD 41, PL 2011, c. 7.

Property Tax Division

Vehicle excise tax exemption – military personnel. The law allows municipalities to exempt from excise tax vehicles owned by residents of Maine who are on active military duty and who are either permanently stationed at a military or naval base outside of Maine or deployed for military service in the United States Armed Forces, including the National Guard and Reserves, for a period of more than 180 days. Effective January 1, 2012. LD 1385, PL 2011, c. 313.

Interest on property tax payments. The law directs the Treasurer of State to post the interest rate applicable to property tax payments on its publicly accessible website. It further repeals the requirement that the Treasurer of State provide written notice to municipalities regarding the interest rate. LD 1043, PL 2011, c. 380.

Municipal lien discharges – facsimile signatures. The law allows municipal treasurers to use facsimile signatures in filing and processing tax lien documents and extends the use of facsimile signatures in the processing of sanitary district sewer liens. LD 297, PL 2011, c. 104.

Telecommunications taxation reform. The law replaces the telecommunications personal property tax with an excise tax on telecommunications businesses for the privilege of operating in Maine. The excise tax is equal to the just value of qualified telecommunications equipment taxed at a rate of 19.2 mills in fiscal year 2012. For fiscal year 2013 and subsequent years, the State Tax Assessor must apply the tax rate of the municipality or the unorganized territory in which the qualified telecommunications equipment is located to the just value of the equipment as adjusted by the municipality's or the unorganized territory's certified assessment ratio. The bill establishes procedures for the assessment, collection and appeal of the excise tax. LD 441, PL 2011, c. 430.

Forested farmland classification. Property enrolled in the Maine Tree Growth Tax Program that is transferred into the Farm and Open Space Tax Program on or after October 1, 2011 will continue to qualify for municipal tree growth reimbursement. Under current law, municipalities lose the tree growth reimbursement for property transferred from the Maine Tree Growth Tax Program into the Farm and Open Space Tax Program. The landowner making the transfer is not required to comply with the forest management plan requirements associated with the land transferred. LD 507, PL 2011, c. 404.

Tax increment financing – recreational development. The law regarding municipal development districts is amended to clarify that once the Department of Economic and Community Development has determined that new or existing recreational trails within a municipality have significant potential to promote economic development, the project costs for planning, design, construction, maintenance, grooming and improvements with respect to the trails are authorized for multiple projects or project phases related to the trails. LD 533, PL 2011, c. 102.

Tax increment financing – allowable completion period. The law changes the requirement that a project financed through municipal bonded indebtedness must be completed within 5 years of the commissioner's approval of the designation of the tax increment financing district by extending the period for completion to 8 years. LD 823, PL 2011, c. 287.

Tax increment financing – plantations. The law authorizes plantations to implement tax increment financing development districts and development programs in the same manner as is currently available to municipalities under the Maine Revised Statutes, Title 30-A, chapter 206. Allows authorized project costs to include certain capital costs associated with public ways and recreational trails within the tax increment financing development district. LD 855, PL 2011, c. 101.

Commercial forestry excise tax. The law limits the period of assessments for back taxes under the commercial forestry excise tax and provides that landowners who sign an affidavit stating that they were unaware of the requirement to file a return may be assessed for the prior 3 years only. Penalties and interest must be waived or abated if the tax is paid within 30 days after receipt of the notice of supplemental assessment. Applies to property tax years beginning on or after April 1, 2011. LD 921, PL 2011, c. 462.